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The Political Ideas of Rousseau*

By PHILIP WAGNER

THE roar and racket of a Presidential year leads many to wonder why our popular political notions square so poorly with the political facts. "Where did all this political nonsense come from?" they ask. "Who started all this, anyway?"

The questions are fairly easy to answer; it was all started by Jean Jacques Rousseau, a Swiss-born Frenchman, who was the first to convince large numbers of persons that there is such a thing as the "sovereignty of the people." This is not to say that Jean Jacques Rousseau invented the idea of democracy, because he did not. Many a primitive tribe practices a rudimentary democracy though it never heard the name of Rousseau. And ever since the beginning of philosophy wise men have been advocating it in one form or another. Nevertheless, Rousseau's importance among the philosophers of democracy is not easily overestimated.

The world had been talking for centuries about absolute monarchy. Jean Jacques came along and changed the subject. More than that, he has colored all subsequent politics.

Reading of a Philosopher.

Jean Jacques Rousseau was no ordinary man. He was not content to be simply happy or unhappy. He was either happy over the fact that he was happy or miserable because he was miserable. However, he got just what he needed under the indulgent care of the light-hearted Mme. de Warens at Les Charmettes. The brilliant sky and soft slopes of Savoy suited him perfectly and gave him a badly needed serenity.

Here he made his first and almost his only serious attempt at study. He started by acquainting himself with the elementary facts of science; then proceeded to attack an encyclopedia and try to master its entire contents. This method turned out as might have been expected; so he found another, which was simply to spend part of each day reading Descartes, Leibnitz, Malebranche, Locke and the other philosophers, then try to reconcile their highly desperate ideas.

This project, which might have baffled a more industrious man than Rousseau, was quickly given up for still a third method of study, to which he remained faithful for the rest of his life. This was to read widely and uncritically, gathering together within his brain as many appealing ideas as he could; then, when he had need of any, there would be time enough to pick and choose among them all. The best that can be said of this scheme for evading intellectual discipline is that it was ingenious. One of his critics made this brutally clear when he said: "Rousseau had distinctions in abundance, but the distinction of knowing how to think in the exact sense of that term was hardly among them."

His Start in Paris.

Leaving the de Warens household he landed eventually in Paris. Here

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*Reprinted by permission from the New York Times of July 1, 1928.

influential persons obtained for him various positions, but usually through some fault of his own the positions seldom lasted long. Only one of these—a secretaryship to the Ambassador to Venice, which lasted a year and a half—proved at all fruitful. His Venetian duties exposed to him the defects of the Venetian Government, and this led him to the problem of government in general. He determined to write a comprehensive treatise to be entitled the "Institute of Politics." This was never carried out; but he nevertheless wrote enough about politics before he got through to inflame a good portion of Europe.

When he returned from Venice to Paris he tried his hand at the drama, and made a scanty living by copying music. At about this time—he was a little over 30—Rousseau first began to take literature seriously. He became friendly with Diderot, and was accepted as a contributor to his monumental and decidedly heterodoxical encyclopedia. Several years later he wrote as a competitor in a prize contest his first really famous work, the "Discours sur les Arts et Sciences," in which he developed the questionable theory that man was at his best when he was in a state of utter savagery and that he had been declining steadily ever since.

The first "discourse" had a great vogue among the élite of the day. They spent a good part of their time in a search after novelty, and greeted every paradox with delight. Rousseau's tickled their fancy, and he got fame for it in return. Three years later his second and still more famous discourse, the "Discours sur l'Inégalité," was published. It was a sequel to the first. Much space was devoted to a glowing description of his conception of the state of nature in which all men were supposed to have lived originally; a description so glowing that Voltaire said it made one long to walk on all fours. He pictures man as wandering aimlessly about, plucking here a berry, there a nut, and so satisfying his simple needs.

The two discourses definitely established Rousseau's reputation as a writer. But he continued to do other things as well. He tried his hand at composing operettas; he got a job, through high influence, in the cashier's office of the Tax Collector, but gave it up in an impulsive moment. He was put in the way of receiving a royal pension, but spoiled his chance through a fine mixture of shyness and contrariness. He engaged in a violent and unreciprocated love affair with a plain and cool-headed young woman named Mme. d'Houdetot. This love affair had a direct influence on the writing of "La Nouvelle Héloise," an extremely prolix and sentimental romance, which gave to Rousseau an almost fabulous reputation among the women of the time.

His Great Book.

A year after the publication of the romance that work of his was published which will live longest—a work which has done more than anything else ever written to put our modern politics on what H. G. Wells has called its sentimental and declamatory basis. This was his "Contrat Social," in which his political ideas were developed. The book will ever remain an enigma. No one has succeeded in giving an entirely clear and coherent account of it, for the reason that it is jammed full of paradoxes, contradictions, incoherences and tortured logic. Practically all of its important ideas have been refuted over and over again—were refuted even in his own time.

In spite of its faults and weaknesses the book attained a popularity such as few philosophical works enjoy. Much of this came through Rousseau's skill as a writer and as a result of those very qualities which weakened him as a political philosopher. The book was deductive in nature; that is, it was based on Rousseau's assumptions, rather than on facts; and Rousseau was not the man

to pay too much attention to facts if they happened to be standing in the way of his views. This blithe disregard of the facts, of course, gave the work a coherence and symmetry which, with the help of his rhetoric, was irresistible to most of its readers.

Rousseau's Idea of the State.

The fundamental idea of the work —that after which it was named— was the idea of a social contract, which was also a somewhat hoary philosophical concept. Plato and Aristotle had criticized the idea that the State is founded by an agreement or contract. The idea was quite familiar to the Hebrews under the name of covenant. And so on down through the years there was generally some philosopher to be found who was leaning heavily upon the idea. It was put to all sorts of purposes. Hobbes used it in defense of absolute monarchy. Locke used it to defend the English revolution of 1688. Rousseau put it to still a different purpose and gave it still another interpretation.

He conceived the social contract as a compact creating a civil society out of the amorphous state of nature. This compact brought into being a body politic which had a most decided and effective will—what he called the "volonté general," or general will. It was this general will of the people, he said, which held the ultimate and absolute sovereign power in all matters of government. The people, by their compact, did not hand over the sovereignty to a ruler; they kept it for themselves and simply chose a ruler to carry out their decrees. So government, no matter whether it appeared on the surface to be a democracy or an aristocracy or a monarchy, was properly nothing but an agent of the general will.

The identity of this idea with our modern conception of the "sovereignty of the people" is perfectly plain. To the average man today it is self-evident that he and his voting brethren are "sovereign." But when Rousseau enunciated the same doctrine under the name of the "general will," the idea was far, indeed, from being a self-evident axiom; although the discontented bourgeoisie were prompt enough to welcome it. It gave them a philosophical weapon with which to fight the idea of divine-right monarchy, emphasizing as it did the idea that the plain man has his political rights. To Rousseau's way of thinking all men are politically equal, from the plain fact of their being what Carlyle called "unfeathered bipeds." Rousseau reduced it to the affair of mathematics. In a community of 10,000 souls, he said, each citizen has exactly 1-10,000th of the sovereignty.

Despite the fallacies of the "Contrat Social," it was social nitroglycerine for the times. The upper classes, of course, did not take his doctrines seriously. They were dazzled, apparently, by the glitter of the court, and failed to discern the approaching revolution; and their frivolity or stupidity also prevented them from wondering about the effect which Rousseau's ideas must certainly have. He got his share of persecution, but it was more for his religious than for his political views.

Idol of the Revolution.

But on other readers the effect of his doctrines was different. The book was read widely, and, what is more important, many of its fundamental ideas made a deep impression. Rousseau died before they bore any practical fruit. During the long interval between the publication of the "Contrat Social" and his death he had few personal reasons to suppose that he would one day be the idol of the revolution. In this period his profound eccentricities, aggravated by persecution, disease, his genius for quarreling and his personal troubles, slowly developed into what was undoubtedly a kind of madness.

For a time after its publication in 1762 he lived in Switzerland to es-

cape French persecution, but he was driven from there and finally abjured his citizenship in the city for which he had always held a sentimental affection. He lived then for awhile in Germany under the protection of Frederick the Great. But his residence in Germany ended just as unhappily. He went then to England at the invitation of David Hume. But there he was as usual discontented, although the English made much of him, and he finally quarreled with Hume himself.

Returning to France, he spent the last part of his life in finishing those personal reminiscences, started during his residence in England, which have brought him so much purely literary fame. In the course of these years he lost one friend after another, and new ones constantly came forward to take their places only to be insulted in their turn and eventually antagonized. Finally, on July 2, 1778, 150 years ago, he died, under circumstances which led many to believe he had committed suicide.

So it was that this man, almost beaten in the long battle with his own nature, came at last to his end. In life he was as consistently miserable as it is possible for man to be. But at any rate he did not live like a vegetable, only to die. After his death his ideas grew steadily in popularity. They entered inevitably into all social discussion of the time, and slowly began that process of seepage which is the only way the ideas of a philosopher ever get to the great mass of mankind.

In the process many of his pet ideas were left behind. But the fundamental thesis of all his political writing, that of popular sovereignty, not only survived but grew steadily in popularity. It became the creed of the French Revolution. It crossed the Atlantic, adding its weight to the more moderate influence of John Locke's philosophy. And today the idea is triumphant. In every Western nation "the people" are held popularly to be sovereign. The idea has sunk into the very fabric of our Western civilization.

Wisdom and Advantages of Our Political System

"We went on this view, that these feeble colonies had not, each in itself, the life and strength of a nation; and yet these feeble colonies and their poor and sparse population were nourished on a love of liberty and self-government. These sentiments had carried them through a successful war against one of the great powers of the earth. They were not to surrender that for which they had been fighting to any scheme, to any theory of a great, consolidated nation, the government of which should subdue the people and re-introduce the old fashion in human affairs: that the people were made for the rulers, and not the rulers by and for the people. They undertook to meet, they did meet, this difficult dilemma in the constitution of government, by separating the great fund of power and reposing it in two distinct organizations. They reserved to the local communities the control of their domestic affairs, and attributed the maintenance and preservation of them to the State governments. They undertook to collect and deposit, under the form of a written Constitution, with the general government all those larger and common interests which enter into the conception and practical establishment of a distinct nation among the nations of the earth, and determined that they would have a central power which should be adequate, by drawing its resources from the patriotism, from the duty, from the wealth, from the numbers of a great nation, to represent them in peace and in war."

—From speech by William M. Evarts.

Defamation of Political Leader or Boss

By EDWARD W. HOLMES
Of the Massachusetts Bar

WHAT may amount to defamation of one in his character as a political leader or boss is a matter of peculiar interest to the profession at this particular time, when a bitter campaign is underway throughout the nation.

The recent Kansas case of Knapp v. Green, which is reported in 55 A.L.R. 850 (123 Kan. 550, 256 Pac. 153), decides that a newspaper charge that a postmaster, as local boss of his party, favored a candidate by ordering his name to be placed upon the ballot, although it was not indorsed by the requisite number of signers, constitutes libel per se under the statute in effect in that state.

Somewhat similarly, it was held, in the early case of Weed v. Foster (1851) 11 Barb. (N. Y.) 203, to be libel per se to refer to one by name as an "influential politician," and charge that a large sum was paid to him to secure an appointment to office.

Articles charging, or at least conveying the meaning, that bribery or perjury have been committed, or are planned, in connection with political activities, likewise have been held to be libelous in a number of cases, such as Hand v. Winton (1875) 38 N. J. L. 122, and Sanford v. Rowley (1892) 93 Mich. 119, 52 N. W. 1119.

Charges of misconduct relating to campaign or public funds clearly amount to libel, as in Cook v. Globe Printing Co. (1910) 227 Mo. 471, 127 S. W. 332 (writ of error dismissed for want of jurisdiction in (1911) 220 U. S. 603, 55 L. ed. 604, 31 Sup. Ct. Rep. 717), and Scofield v. Milwaukee Free Press Co. (1905) 126 Wis. 81, 2 L.R.A.(N.S.) 691, 105 N. W. 227.

Words charging political leaders with corruption of voters, or election frauds, have also been held to be libelous in a number of cases, examples of which are Edwards v. San Jose Printing & Pub. Soc. (1893) 99 Cal. 431, 37 Am. St. Rep. 70, 34 Pac. 128; Tillson v. Robbins (1878) 68 Me. 295, 28 Am. Rep. 50; Coffin v. Brown (1901) 94 Md. 190, 89 Am. St. Rep. 422, 50 Atl. 567, 55 L.R.A. 732; and Dow v. Long (1906) 190 Mass. 138, 76 N. E. 667.

Language indicating that a political leader has been disloyal to his party has been held to amount to libel in some cases, as in Hallam v. Post Pub. Co. (1893; C. C.) 55 Fed. 456 (affirmed in (1893) 8 C. C. A. 201, 16 U. S. App. 613, 59 Fed. 530) (charging a candidate with selling out to a rival), and Peck v. Coos Bay Times Co. (1927) 122 Or. 408, 259 Pac. 307 (reference to plaintiff as "political double crosser"). But that the particular words used did not necessarily charge anything dishonorable, see Duffy v. New York Evening Post Co. (1905) 109 App. Div. 471, 96 N. Y. Supp. 629 (Republican charged with Tammany connections), and Shaw v. Crandon Printing Co. (1913) 154 Wis. 601, 143 N. W. 698.

Articles charging graft, connection with a political ring, or unworthy associations, present another class of cases of libel, typical of

which class are State v. Atchison (1879) 3 Lea, 729, 31 Am. Rep. 663; State v. Sheridan (1908) 14 Idaho, 222, 15 L.R.A.(N.S.) 497, 93 Pac. 656; and Petsch v. Dispatch Printing Co. (1889) 40 Minn. 291, 41 N. W. 1034, 1036. But, as not clearly connecting the plaintiff with an alleged plot to build a sinister political machine, see Ewell v. Boutwell (1924) 138 Va. 402, 121 S. E. 912.

A charge that a political leader is not qualified for leadership, or is a demagogue, may likewise amount to libel, as in Wood v. Boyle (1896) 177 Pa. 620, 55 Am. St. Rep. 747, 35 Atl. 853, where some of the language used was that "without a following in politics he has set up as a political boss," that he was "without brains," and was "invariably associated with movements which ought not to succeed."

Publications ridiculing a political leader may also subject the author or publisher to liability for libel, as in Buckstaff v. Viall (1893) 84 Wis. 129, 54 N. W. 111 (ironical gibe in the form of a prayer for "divine favor of Senator Bucksniff [meaning plaintiff, named Buckstaff], the legislative god," etc.); Newby v. Times-Mirror Co. (1916) 173 Cal. 387, 160 Pac. 233, Ann. Cas. 1917E, 186 (cartoon holding leader of reform party up to ridicule as being a hypocrite); and Blum v. Kusenberger (1913) — Tex. Civ. App. —, 158 S. W. 779 (article referring to "tyranny and 'bulldozing' methods of a self-constituted czar," where he had threatened publisher because of a previous publication).

Among other charges, of a miscellaneous nature, against political leaders or bosses, which have been held at times to be libelous, attention may be called to Barr v. Moore (1878) 87 Pa. 385, 30 Am. Rep. 367. (Statement concerning the chairman of a political committee, that the "impudent impostor attempts to dictate" to the voters, that he was the recognized champion of prostitutes and the lowest grade of criminals, and that he followed his profession solely for the purpose of making money); Prewitt v. Wilson (1905) 128 Iowa, 198, 103 N. W. 365 (affidavit in which defendant stated that he would not believe under oath plaintiff, who was chairman of county committee); and Black v. State Co. (1913) 93 S. C. 467, 77 S. E. 51, Ann. Cas. 1914C, 989 (allegation that a newspaper, after having threatened to destroy plaintiff's business unless he would cease his efforts against a candidate for office, in pursuance of such purpose, falsely and maliciously published that plaintiff refrained from making an open charge against the candidate at a proper time, but subsequently resorted to secret, insidious, and discreditable charges, when it was too late for the candidate and his friends to refute them, held good against a demurrer). But an article which stated that a mayor had declared that he was running the city was held not to constitute a libel upon him, where the statement and declaration both had reference only to the calling of a meeting of the council, a matter within his discretion, in Dever v. Montgomery (1913) 89 Kan. 637, 132 Pac. 183.

Within the limits of the present article it is, of course, impossible to do more than refer briefly to some of the cases involving defamation of the sort indicated, and merely suggest the nature of the language used; but subscribers to A.L.R. will find set out, in an annotation in 55 A.L.R. 854, the cases on the subject, together with some of the pertinent language forming the basis of the alleged or actual defamation.

The matter of privilege in such cases is likewise discussed in the annotation referred to, in connection with particular cases turning upon that point. Thus, in Dow v. Long (1906) 190 Mass. 138, 76 N. E. 667, where defendant claimed protection, upon the ground of public interest, for his charge against a "boss," which carried an implication, at least, of bribery, the court said that, unless the averments of the declaration showed a sufficient occasion and

justification for what the defendant was alleged to have done (which they failed to do), a cause of action was stated; while in Fitzpatrick v. Daily States Pub. Co. (1896) 48 La. Ann. 1116, 20 So. 173, where an editor claimed a conditional privilege, in respect to charges of acts of corruption claimed to have been committed by a mayor, by reason of a previous publication in another paper of facts upon which he based his charges, the court ruled that this could only be availed of in mitigation of damages, there being no attempt to prove the truth of the charges.

But as holding to be within the bounds of qualified privilege, as to an officer and candidate, words in a political sermon which extravagantly referred to a ruling political clique of saloon keepers, urged the voters to repudiate all officers and candidates who were supporting it, and denounced the latter generally, as unfaithful to their trust and unfit to hold office, without mentioning any names, or clearly referring to any particular individuals, see Arnold v. Ingram (1912) 151 Wis. 438, 138 N. W. 111, Ann. Cas. 1914C, 976.

The right fairly to comment upon and criticize a political leader has been clearly enunciated in some cases, such as Lydiard v. Wingate (1915) 131 Minn. 355, 155 N. W. 212, where Antisaloon League officials published a statement in reference to an alleged plot upon the part of opponents, including plaintiff, to obtain control of the legislature, and the court said: "The interest which every citizen has in good government requires that the right be not unduly curtailed to express his opinion upon public officials and political leaders, to seek and convey information concerning their plans and purposes, and to freely criticize proposed methods and measures." So, in observing that the charge was wholly directed to plaintiff's political decisions, and did not reflect upon his moral character, being rather a criticism of existing methods of party management and organization, the court in Barr v. Providence Telegram Pub. Co. (1905) 27 R. I. 101, 60 Atl. 838, held to be within the limits of legitimate discussion of public measures and party politics an article which stated, in reference to the chairman of a city committee, that there was something radically wrong with Republican institutions and election methods, when individuals of this character could, through election machinery, say to thousands of respectable voters that they cannot have their choice, but must submit to the choice imposed upon them through political connivance or something worse.

In overruling the plea of privilege, however, the court in Barr v. Moore (1878) 87 Pa. 385, 30 Am. Rep. 367, pointed out that plaintiff was not a candidate for office, and said that, even conceding his action as chairman of the committee to have been a proper subject for criticism of considerable freedom, the fact afforded no legal justification for the fierce onslaught made on him.

There being a conflict of authority upon the general questions of the exact limits of the privilege of commenting on political affairs, public officers, and candidates, in cases of mistakes of fact, this conflict is also noticed in cases of defamation of a political leader or boss. A few of the latter sort of cases, such as Edwards v. San Jose Printing & Pub. Soc. (1893) 99 Cal. 431, 37 Am. St. Rep. 70, 34 Pac. 128, are in line with the majority doctrine, which refuses to extend the qualified privilege to misstatement of fact regarding an officer, or candidate for office, although made in good faith, from proper motives, and with reasonable grounds for belief in their truth—which doctrine was enunciated by Taft, J., in Post Pub. Co. v. Hallam (1893) 8 C. C. A. 201, 16 U. S. App. 613, 59 Fed. 530 (affirming (1893; C. C.) 55 Fed. 456).

But the minority view was apparently applied in McLean v. Merriman (1920) 42 S. D. 394, 175 N. W. 878 (defamation of a plaintiff who had

come into the state to take charge of the campaign against the adoption of woman suffrage), that court holding qualifiedly privileged, as a matter of legitimate public interest and concern, an article (copied from a magazine) which charged that the plaintiff had spent much of his time at a notorious resort, and conveyed the idea that he was associated with the liquor interests, the court observing that "an infallible test in determining whether a communication published under the particular circumstances is or is not privileged is to ask whether, if true, it is a matter of proper public interest in relation to that with which it is sought to associate it."

In reference to communications to a body or person charged with a particular or special duty or interest, it may be noted that in State v. Sheridan (1908) 14 Idaho, 222, 15 L.R.A. (N.S.) 497, 93 Pac. 656, where privilege was claimed for a statement that, because of a record of graft, the governor could muster but three votes in a county convention, it was said that, where an article published is libelous per se, the newspaper could not justify the publication upon the ground that it was a report of an official body, unless the article was confined to the minutes or proceedings of the convention.

Conduct of Attorney Respecting Political Campaign Funds as Ground for Disbarment or Suspension

IN THE North Dakota case of Re Crum, 215 N. W. 682, reported and annotated in 55 A.L.R. 220, it appears that an attorney, the defendant, who, at the time held the office of special assistant attorney general, obtained from a bank cashier a written confession to the effect that he had embezzled certain of the bank's funds. At the instigation of the attorney, criminal prosecution was commenced against the cashier. While the prosecution was pending, the cashier asked the attorney if he thought contribution to the recall campaign fund would help his case. A few days later the cashier notified the defendant that he had decided to make a contribution to the fund; shortly thereafter the defendant received by mail the sum of $700, which he claimed to have turned over to a campaign fund, suspecting that it was sent by the cashier for the purpose of obtaining immunity. It is held that the acceptance of money under such circumstances, even though as a campaign contribution, was bribery, and warranted the suspension of the defendant from the practice of law for a period of six months.

The precise question seems to have arisen in only one other case. In People ex rel. Johnson v. Goddard, 11 Colo. 259, 18 Pac. 338, it appeared that an attorney, who was a candidate for the office of district judge, executed a written promise to an influential politician to appoint him clerk of the district court in case of his election. On the delivery of the promise by a friend of the attorney, the sum of $500 for campaign expenses was accepted, against the wishes of the attorney. This money was returned after the election. The court held that, while the whole transaction was reprehensible, it did not warrant the disbarment of the attorney.

The Lawyer and the Finger-print

By JOHN ARTHUR SHAW
Of the D. C. Supreme Court Bar

PROBABLY the most difficult persons to cross-examine are the expert witnesses, doctors, handwriting experts, and finger-print experts, being perhaps the most difficult to handle because of the fact that they are being questioned on matters of which they have extraordinary knowledge, and of which the examining attorney has usually no knowledge.

In the case of the finger-print expert, the attorney for the defense has an additional difficulty to cope with—the fact that many finger-print experts are connected with the police force and have an overwhelming desire to convict, and that some of them may refrain from complete frankness, if frankness will assist the accused.

Finger-print identification is the most simple of all sciences, and, in so far as is necessary for the purpose of examining witnesses, may be mastered in a few hours. Some of the high points of this science, of interest to attorneys, will be taken up in this article.

The first point to be impressed upon the attorney about to examine a finger-print expert is that finger-print identification is an exact science, and that, therefore, there can be no honest differences of opinion on the part of competent experts. If experts fail to agree, then one or the other is either incompetent or dishonest. Therefore, the attorney should examine the opposing witness for the purpose of ascertaining whether he is competent. First, he should be asked whether he has previously been recognized by a court as a finger-print expert. Next, he should be asked where, and under what recognized expert, he obtained his training, how many finger-print records he has classified, and how many he has identified during his career, and which of his identifications have stood the test of court proceedings. If the opposing expert is able to qualify, he should then be asked how he would proceed to identify a print, and how many points of similarity there should be on two clear, identical prints. If he is competent, his answer to this last query should be, "between fifty and seventy." If his estimate is under fifty, then he should be pressed on this point.

The use of finger-prints as a means of personal identification has been adapted to many situations and is an important branch of learning to the lawyer, both in civil and criminal matters. Mr. Shaw has written many articles on the subject which have been widely published. His paper here presented on the cross-examination of finger-print experts contains valuable suggestions.

There is an annotation in 3 A.L.R. 1706 on identification by palm-print impressions and in 16 A.L.R. 370 on finger prints as evidence. At page 373 of the latter annotation is a reference to finger-print experts and their evidence.

Having answered the above, the witness should be asked how many points of similarity he would require before pronouncing two prints identical. If his answer is less than ten he should be pressed on this point, and asked if he can recollect any case in which two prints were pronounced identical on the basis of less than ten points of similarity.

The next point of attack, and this is the strongest one, is that of points of dissimilarity; i. e., are there any characteristics on either print not to be found on the other. If characteristics do appear on one print, and not on the other, and if their absence is not explained by the absence of part of the print, or blur, then the finger-print evidence breaks down, as it is one of the fundamental principles of finger-print identification that unless two prints are identical in each and every visible characteristic, then the prints are not identical.

The attorney for the defense should also examine the witness with a view to ascertaining whether the print, assuming that it is from his client's fingers, might not have gotten on the article in a legitimate way, whether it was planted there by enemies of his client, and, whether, as occurred in a recent case, the print may not have been doctored for the purpose of incriminating his client.

In choosing a finger-print expert to appear for the defense, care should be taken that he is competent, and that his experience has been such as will satisfy the court and impress the jury.

The examination of the finger-print expert for the defense should proceed along the same lines as suggested for examining the expert for the prosecution, with particular attention being paid to the points on which the prosecution witness seemed to have been weak.

In addressing the jury the attorney should bear in mind that they know no more about the science of finger-print identification than he does, and that the points in the testimony that impress him as favorable to his client will also probably impress the jury the same way.

An Explanation

In the April-May CASE AND COMMENT, 1928, we quoted four paragraphs from an address delivered by Robert R. Friend, Esq.

Mr. Friend writes us that in preparing the second of the quoted paragraphs, he employed, with additions appropriate to his theme, some of the striking sentiments of a poem contained in a newspaper clipping, no longer in his possession, but which he recalled in a general way. He states that he should have been very glad, if he had had the clipping, to quote it, giving proper credit. He has learned that the poem is entitled "America," and was written by Rabbi Abba Hillel Silver, D.D., of Cleveland, Ohio, to whom he wishes to give credit for such of his statements as were inspired by the poem.

A Feat of the Imagination

Some of the stories told about absentminded people rather tax one's credulity. The following is an example: It is related of Peter Burrows, a celebrated Irish barrister, that he was seen by a friend one morning shaving with his face to a blank wall. Asked why he chose so strange a position, he replied: "To look in the glass, of course."

"Why, there's no glass there."

"Eh!" exclaimed Burrows. "Bless my soul, I did not notice that."

Ringing the bell, he called his servant and questioned her regarding the looking-glass that had been hanging on the wall.

"Oh, sir," said the girl, "that was broken six weeks ago."

"The Cure"

—"*Moses started all the trouble.*"

A novel departure in the law book field has recently been essayed by The Lawyers Co-operative Publishing Co. of Rochester, N. Y., in the production of an educational moving picture showing the various processes, both editorial and mechanical, which enter into the production of an annotation.

This picture is entitled "The Cure" and is introduced in humorous fashion by an animated cartoon depicting the growth of the law from the stone tablets of Moses down to the present day mass production of decisions with its attendant confusion to the attorney searching for precedent among the maze of reported cases.

Then the picture, settling into more serious vein, shows the preparation of the annotation—how the reported cases are received from all courts of last resort, the selection of those for annotation, the exhaustive search for all authorities in point and the actual writing of the annotation. In other words it is a look behind the scenes in one of the largest law publishing houses in the world.

A section is devoted to scenes showing the steps in the actual production of a law book from setting the type to shipping the finished product.

Realizing the difficulty experienced by those responsible for entertaining Bar Association meetings and other gatherings of lawyers, the producers of this picture have had several copies made on narrow-gauge film for use in the kodoscope and other home projectors and are prepared to loan a copy to any Association interested in showing it.

Requests should be directed to Educational Department, The Lawyers Co-operative Publishing Co., Rochester, N. Y.

The New President of the American Bar Association

The new President of the Association possesses, in addition to the qualities which have given him distinction in his profession, one of the most invaluable assets which the head of a large organization can have. He is well acquainted with all the details of the Association. He understands the working of its machinery, for he has been an important part of it for many years. He has served on its Executive Committee, and has been on various important Committees in addition. He has taken an active part in forwarding a number of important movements sponsored by the Association, notably the movement for Uniform State Laws. . . .

The following sketch from the Encyclopedia of American Biography of the American Historical Society gives further interesting details as to our new President:

Gurney Elwood Newlin, lawyer, was born in Lawrence, Kansas, November 11, 1880, the son of Thomas Elwood and Laurie (Hadley) Newlin. He is a descendant of Nicholas Newlin, an English Quaker, who fled from religious persecutions, first to Ireland, and in 1692 to Pennsylvania. His father (born 1850), a banker, removed to California in 1886 and became prominently active in civic and public affairs in Los Angeles. In 1887 he was one of the founders of the city of Whittier, California, and has served as vice-president of the Farmers' and Merchants' National Bank of Los Angeles.

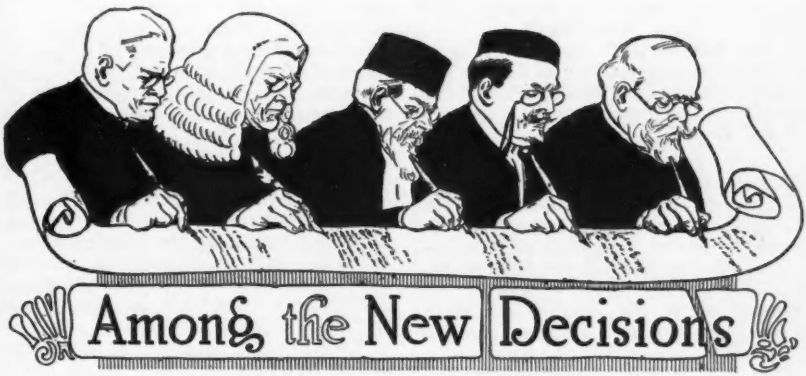
Gurney E. Newlin

Gurney Elwood Newlin completed his preparatory education in the Los Angeles High School in 1898, and was a student of Haverford College, Haverford, Pennsylvania, during 1898–1900. He completed his college course at the University of California, where he was graduated in 1902, and made his professional studies at Harvard Law School, where he was awarded the degree of LL.B. in 1905. Immediately after his graduation he began practice in Los Angeles, where he has since resided.

In 1906 Mr. Newlin was appointed general attorney for the Los Angeles Pacific Company, controlling important interurban electric lines out of Los Angeles, and in 1910 became its general counsel. He returned to general practice in 1912, and, devoting particular attention to corporation law, has since acted as attorney and counsel to numerous important companies. . . .

Throughout the period of the World War Mr. Newlin was conspicuously active in important movements in behalf of the Nation and its soldiers. In his own city he was a member of the Committee of One Hundred and Fifty, which raised the Los Angeles quota in the Red Cross and Liberty Loan drives, also one of the executive committee of the Four-minute Men. From the entry of the United States into hostilities and until May, 1918, he was chairman of the Los Angeles Chapter of the American Red Cross. In May, 1918, he was appointed Deputy Commissioner to France of the American Red Cross, with the rank of major in the United States Army, and had charge of all Red Cross operations in Paris, and on the line from St. Quentin to Verdun, returning to the United States in April, 1919. . . .

—American Bar Association Journal.



Among the New Decisions

Four things belong to a Judge: To hear courteously, to answer wisely, to consider soberly, and to decide impartially.—*Socrates.*

Attorneys — *discipline for advertising for business.* That an attorney at law may be disciplined by the court for advertising for business is held in the Massachusetts case of Re Cohen, 159 N. E. 495, which is followed by annotation in 55 A.L.R. 1309, on advertising as ground for disbarment or suspension of attorney.

Attorneys — *disbarment — misconduct as judge.* An attorney, it is held in Re Stolen, 193 Wis. 602, 214 N. W. 379, may be disbarred for lack of moral qualifications, although the misconduct complained of was in his acts as judge.

Moral delinquency or other conduct not affecting court or client, as ground for disbarment or suspension of attorney, is the subject of the annotation accompanying this case in 55 A.L.R. 1355.

Bankruptcy — *attachment — exempt property.* Exempt property set aside to a bankrupt cannot, it is held, in the North Dakota case of Blake v. Alswager, 215 N. W. 549, be subjected by a creditor to a lien of attachment, issued after the discharge in bankruptcy, in an attempt to collect on a claim from which the debtor is discharged in bankruptcy, even though the action on the claim is commenced before the discharge in bankruptcy.

This case is annotated in 55 A.L.R. 298, on the right of creditor to attach a bankrupt's exempt property after his discharge in bankruptcy.

Bills and notes — *sufficiency of diligence to notify indorser.* Sufficient diligence to give notice of dishonor to an indorser of a promissory note who did not place his address on the paper is held not to appear, in the case of Bost v. Rexine Co. 56 App. D. C. 34, 8 F. (2d) 795, where the notice was sent to the address of the maker, with no reason to believe that the indorser received his mail there, after merely examining the city and telephone directories without finding his name, and with no inquiry of the maker as to his location.

Examining directory as sufficient diligence in locating drawer or indorser for purpose of notice of dishonor is the subject of the annotation appended to this case in 55 A.L.R. 670.

Carriers — *duty to assist passenger to alight.* Where railroad employees see that assistance is necessary to enable a woman passenger encumbered with a baby and baggage to alight in safety from a train, it is

held in the Alabama case of Southern R. Co. v. Laxson, 114 So. 290, that it is their duty to render it.

Duty and liability of carrier as to assisting passenger to board or alight from car or train is the subject of the annotation accompanying this case in 55 A.L.R. 385.

Carriers — *injury to passenger by collision of overhang with automobile.* A street car company is held not to be liable, in the Iowa case of Wheeler v. Des Moines City R. Co. 215 N. W. 950, for injury to a passenger by collision of the rear end of the car in the outward swing of its overhang in rounding a corner, with an automobile which has, without knowledge of the company, for the purpose of passing the car, driven into an insufficient space between the car and a standing truck after the car is in motion.

Liability of street railway company for injury to passenger or pedestrian as result of overhang of car in rounding curve is the subject of the annotation in 55 A.L.R. 473.

Carriers — *duty to protect produce from freezing.* Under the provisions of the Interstate Commerce Act the railroad company is held not to be liable, in the Massachusetts case of W. H. Blodget Co. v. New York C. R. Co., 159 N. E. 45, for failure to furnish heat to protect a carload of celery from freezing,where the published tariffs do not provide for such service, but require the shipper to provide the heat, if necessary.

Annotation on duty and liability of carrier with respect to heating freight car follows this case in 55 A.L.R. 900.

Charities — *will — bequest for keeping up burial lot.* A bequest by a widow without lineal descendants of a fund to a cemetery association with statutory authority to accept such gifts, with directions to apply the interest towards keeping up testator's burial lot, is held to be valid, in the case of Re Brogan, 290 Pa. 319, 138 Atl. 837, even though the interest may exceed what is necessary for that purpose.

Validity of devise or bequest for purchase or care of burial lot or monument as affected by objection that amount is excessive is the subject of the annotation accompanying this case in 55 A.L.R. 1301.

Constitutional law — *equal protection — exempting existing buildings from prohibitory ordinance.* An ordinance prohibiting the keeping of automobiles in wooden buildings is held not to be invalid as denying the equal protection of the laws, because it excepts the owners of existing garages, in Sammarco v. Boysa, 193 Wis. 642, 215 N. W. 446.

The validity of public regulations as to garages is treated in the annotation which follows this case in 55 A.L.R. 370.

Constitutional law — *ordinance enforcing payment of delinquent water bill — due process of law.* A municipal ordinance, requiring a property owner, in the absence of contract, to pay rent due the city for water consumed on the premises by a tenant, which is obviously designed to enforce the collection of the water rents, and not as a regulation conservative of the tenant's health, with which it is but remotely connected, is held, in Etheredge v. Norfolk, 148 Va. 795, 139 S. E. 508, to be not only unreasonable and unnecessary, but unconstitutionally to deprive the owner of his property without due process of law.

Making payment for water or light a charge upon the property, or against the present owner or occupant, irrespective of the person who enjoyed the service, is the title of the annotation appended to this case in 55 A.L.R. 781.

Contract — *waiver of covenant by parol.* That a covenant in a contract under seal may be waived by parol by the party for whose benefit it was inserted is held in Martin v. Martin, 98 Vt. 326, 127 Atl. 292,which is accompanied, in 55 A.L.R. 697, by annotation on waiver by parol of provision in sealed instrument.

Contracts — *wills — validity of agreement not to contest.* An agreement by an heir, in consideration of a present advance by his ancestor, not to contest his will, is not against public policy, is held to be valid and enforceable in Re Cook, 244 N. Y. 63, 154 N. E. 823, which is annotated in 55 A.L.R. 806, on contract to refrain from contesting will.

Contracts — *for additional compensation — when enforceable.* Where a contractor can justify his refusal to proceed with the contract, because he is confronted with circumstances not contemplated when the contract was made, which render its performance impossible, or unduly onerous, and the promisor induces him to proceed by a promise of additional compensation, it is held in Blakeslee v. Water Comrs., 106 Conn. 642, 139 Atl. 106, that the promise may be enforced.

This case is accompanied in 55 A.L.R. 1319, by annotation on promise of additional compensation for completing building on construction contract.

Covenants — *building line — sun parlor.* A glass-inclosed sun parlor on foundations extending to the ground is held, in the Massachusetts case of Reid v. Grat, 158 N. E. 339, not to be within the operation of exceptions, in a covenant establishing a building line, of steps, windows, porticos, and other projections appurtenant thereto.

Part of structure that must be beyond line to amount to violation of building-line restriction is the subject of the annotation appended to this case in 55 A.L.R. 330.

Damages — *telegraphs — cipher message — notice of important nature of transaction.* The length and cost of a telegraphic message in cipher, or the names of the parties thereto, are held in Kerr S. S. Co. v. Radio Corp. of America, 245 N. Y. 284, 157 N. E. 140, not to constitute notice to the telegraph company that business of

moment is involved, so as to render it liable for special damages arising from its neglect to send the message, although they might fairly suggest to a reasonable man that business of moment was the subject of the message.

Measure of damages for failure, delay, or mistake in transmitting or delivering telegram in cipher is the subject of the annotation appended to this case in 55 A.L.R. 1139.

Evidence — *admission — failure to answer letter.* Mere failure of the addressee to answer a letter containing statements which the writer wishes to prove is held not to constitute an admission, in A. B. Leach & Co. v. Peirson, 275 U. S. 120, 72 L. ed. (Adv. 75), 48 Sup. Ct. Rep. 57, which is annotated in 55 A.L.R. 457, on admissibility in favor of writer of unanswered letter, not part of mutual correspondence.

Garnishment — *of future alimony.* Under a decree directing a man to pay his divorced wife as alimony a specified sum on the last day of each month during her life, it is held in the Iowa case of Malone v. Moore, 215 N. W. 625, that there is no debt due, or to become due, during a month prior to the time fixed for payment, which is subject to garnishment in his hands.

Liability of alimony for wife's debts is the subject of the annotation accompanying this case in 55 A.L.R. 356.

Homicide — *causing overturning of boat — involuntary manslaughter.* One who fires so close to a boat carrying persons on the water, for the purpose of frightening the occupants, that he causes one of them to jump overboard and overturn the boat, thereby causing others to drown, is held to be guilty of involuntary manslaughter, in the Tennessee case of Letner v. State, 299 S. W. 1049, which is followed in 55 A.L.R. 915, by annotation on discharge of firearm without intent to inflict injury, as proximate cause of homicide resulting therefrom.

Income taxes — *when worthless debts to be deducted.* That a taxpayer cannot carry on his books accounts as good when in fact they are worthless, and deduct them in a year subsequent to the one in which he must be presumed to have ascertained their worthlessness, for the purpose of his income-tax return, is held in Avery v. Commissioner of Internal Revenue, 22 F. (2d) 6, which is followed in 55 A.L.R. 1277, by annotation on year in which loss or bad debt must be charged in order to be allowed as a deduction from taxpayer's income.

Insurance — *against conversion — surrender of automobile to vendor.* If the notes and securities given upon an instalment sale of an automobile are executed directly to a finance corporation, a return of the machine by the purchaser to the vendor is held in Automobile Finance & Securities Co. v. Globe Indemnity Co. 161 La. 303, 108 So. 545, to be within the protection of a policy insuring the finance corporation against direct pecuniary loss by any act of larceny, embezzlement, or conversion by the purchaser.

This case is annotated in 55 A.L.R. 823, on the question of automobile conversion or embezzlement insurance.

Interest — *on money used in executor's business.* Where an executor uses the money of the estate in his own business, it is held, in the Wyoming case of Re Reed, 259 Pac. 815, that he will, in the absence of any showing as to the profits realized by its use, be charged at least simple interest at the legal rate.

The rate of interest chargeable against guardians, executors or administrators, and trustees is treated in the annotation appended to this case in 55 A.L.R. 941.

Judges — *liability for official acts.* Judicial officers acting within their jurisdiction are held to be exempt from liability in civil actions for their of-

ficial acts, in Berry v. Smith, 148 Va. 424, 139 S. E. 252, although such acts are alleged to have been done maliciously and corruptly.

Annotation on civil liability of judicial officer for false imprisonment accompanies this case in 55 A.L.R. 279.

Judgment — *for loss of wife's services — action for personal injuries.* A judgment in favor of a man for loss of the services of his wife from a personal injury to her is held to bar an action by him for personal injuries to himself growing out of the same accident, in the case of Johnston v. Southern R. Co. 155 Tenn. 639, 299 S. W. 785, to which is appended annotation, in 55 A.L.R. 932, on judgment in action for damages on account of injury to wife as bar to action for injury to self sustained in same accident, and vice versa.

Larceny — *from husband — liability.* The marriage relation is held not to make it impossible for a married woman to be prosecuted for the larceny of the separate property of her husband, in State v. Koontz, 124 Kan. 216, 257 Pac. 944, which is followed, in 55 A.L.R. 555, by annotation on larceny or embezzlement by one spouse of other's property.

Libel — *action — maintenance by corporation.* That a corporation may maintain an action for libel is held in National Ref. Co. v. Benzo Gas Motor Fuel Co., 20 F. (2d) 763, which is accompanied in 55 A.L.R. 406, by annotation on action by corporation for libel or slander.

Master and servant — *private employment of police officer — liability of employer.* Private persons, with the consent of the state, may employ its police officers to represent them, and to do special work for them in protecting and preserving their property and maintaining order on their premises, and, when such officers are engaged in the performance of their duties to their employers and are act-

ing within the scope of their powers and duties, they are held, in Meallus v. Hutchinson Amusement Co., 126 Me. 469, 139 Atl. 671, to become the employees of such private persons, and their employers are liable for negligent and wanton acts committed by them.

The liability of the private employer of a police officer for the latter's negligence or other misconduct is the subject of the annotation accompanying this case, in 55 A.L.R. 1191.

New trial — *entertaining juror.* A new trial, it is held in the Iowa case of Lynch v. Kleindolph, 216 N. W. 2, will be granted in an action to recover damages for personal injuries, where the verdict was for defendant, who, pending trial, took a juror to view a farm which he superintended and gave him his dinner on the trip, although the case on trial was not mentioned during the time they were together.

Contact between juror and party or attorney during trial of civil case as ground for new trial is the subject of the annotation appended to this case in 55 A.L.R. 745.

Partnership — *liability of partner — tort of drunken copartner.* A partner is held, in Dixon v. Haynes, 146 Wash. 163, 262 Pac. 119, to be liable for an injury inflicted by his copartner, who, while in an intoxicated condition and engaged in driving, on the business of the partnership, a truck belonging to it, ran into another vehicle, in a negligent and even reckless manner, and killed its driver; and such liability exists although the partner did not know of the copartner's drunken condition.

The annotation which is appended to this case in 55 A.L.R. 1218, treats of liability for the negligence of an intoxicated partner or servant.

Privacy — *case — advertising delinquent accounts — liability.* The placing by a merchant conspicuously in his window, of an announcement that a named person owes an account of a specified amount and fails to keep his promise to pay it, and that the account will be advertised so long as it remains unpaid, for the purpose of coercing payment and exposing the debtor to public contempt, ridicule, or disgrace, is held, in Brents v. Morgan, 221 Ky. 765, 299 S. W. 967, to be an actionable invasion of the right of privacy if it causes mental pain, humiliation, or mortification to the debtor, although the statement is true.

Right of action for damages because of methods used in attempting to collect a debt is the subject of annotation accompanying this case in 55 A.L.R. 964.

Telegraphs — *delay — wire trouble — excuse.* Wire trouble is held not to be a legal excuse, in the West Virginia case of Bluefield Mill. Co. v. Western U. Teleg. Co. 139 S. E. 638, for the failure of a telegraph company to promptly transmit a message which upon its face, and because of information possessed by the company in regard thereto, conveys notice of the requirement for despatch in its transmission, where the existence and extent of the wire trouble are known to the company at the time the message was accepted, and these facts are not communicated to the sender.

The duty of a telegraph company to notify the sender of message in case of inability to transmit or deliver promptly is the subject of the annotation appended to this case in 55 A.L.R. 636.

Warehousemen — *right of patron of cold storage.* One who places apples in cold storage is held, in the Virginia case of John Nix & Co. v. Herbert, 140 S. E. 121, to have a right to expect a prevention of decay for a reasonable period, depending upon the circumstances of each particular case.

Annotation on the liability of a warehouseman for deterioration of goods due to improper temperature follows this case in 55 A.L.R. 1098.

A.L.R. Annotations in Volume 55 Include These Subjects:

Annotation concentrates to a focal point the learning on a subject.

Appearance — Attack by defendant upon attachment or garnishment as an appearance subjecting him personally to jurisdiction. 55 A.L.R. 1121.

Assignment for creditors — Waiver of or estoppel to assert lien by filing claim with or receiving dividend from assignee for creditors. 55 A.L.R. 993.

Banks — Liability of transferrer of corporate stock for calls or assessments as affected by insolvency, fraud, or illegality in transfer. 55 A.L.R. 681.

Banks — Right of stockholders contributing to make good losses to be reimbursed by, or out of assets of, corporation. 55 A.L.R. 794.

Banks — Right of one indebted to insolvent bank to set off deposits which he has made as trustee. 55 A.L.R. 822.

Banks — Bank to which paper is sent for collection of principal or interest as agent of obligor. 55 A.L.R. 1168.

Carriers — Public regulation of towage rates. 55 A.L.R. 963.

Constitutional law — Provision for taking or retaining possession pending appeal in condemnation proceeding. 55 A.L.R. 201.

Constitutional law — Validity of statute or ordinance fixing closing hours for certain kinds of business. 55 A.L.R. 242.

Constitutional law — Constitutionality of statute regulating land surveyors or civil engineers. 55 A.L.R. 307.

Constitutional law — Validity of statute or ordinance relating to protection of adjoining property in making excavations. 55 A.L.R. 464.

Constitutional law — Constitutional power to compel railroad company to relocate or reconstruct highway crossing or to pay or contribute to the expense thereof. 55 A.L.R. 660.

Constitutional law — Extension of police power of municipal corporation beyond territorial limits. 55 A.L.R. 1182.

Constitutional law — Constitutionality of statute fixing minimum rate of speed at which carrier may transport special kinds of freight. 55 A.L.R. 1296.

Contempt — Assault as contempt of court. 55 A.L.R. 1230.

Contracts — Modification of sealed instrument by subsequent parol agreement. 55 A.L.R. 685.

Corporations — Right or duty of corporation to pay dividends; and liability for wrongful payment. 55 A.L.R. 8.

Corporations — Liability of stockholder as affected by business of corporation being turned over to an officer of the court or other persons. 55 A.L.R. 327.

Corporations — Construction work by foreign corporation as doing business within the state. 55 A.L.R. 726.

Courts — Conclusiveness of declaration in ordinance of an emergency. 55 A.L.R. 779.

Criminal law — Effect of statutory change of penalty or punishment after conviction. 55 A.L.R. 443.

Criminal law — Penal or criminal liability as affected by defendant's employment of an independent contractor. 55 A.L.R. 642.

Criminal law — What constitutes attempt to commit robbery. 55 A.L.R. 714.

Deeds — Sufficiency and construction of description in deed or mortgage as "all" of grantor's property, or "all" of his property in certain locality. 55 A.L.R. 162.

Eminent domain — Right of abutting owner to compensation on widening of highway space for vehicle traffic. 55 A.L.R. 896.

Evidence — Demonstrative evidence on issue of negligence or contributory negligence at railroad crossing. 55 A.L.R. 1340.

Executors and administrators—Rights of executor, administrator, or trustee to commission on stock dividends. 55 A.L.R. 710.

Executors and administrators — Covenant against assignment of lease as affecting personal representatives of lessee. 55 A.L.R. 984.

Executors and administrators — Following trust funds deposited in mixed bank account of trustee. 55 A.L.R. 1275.

Gasolene stations — Public regulation or authorization of gas filling stations. 55 A.L.R. 256.

Injunction — Attorneys' fees for services in resisting application for preliminary injunction as damages recoverable under bond. 55 A.L.R. 454.

Injunction — Right of property owner to enjoin projection from building over street or alley. 55 A.L.R. 911.

Insurance — Suicide clause in policy of life or accident insurance as affected by incontestable clause. 55 A.L.R. 549.

Insurance — Materiality, in application for accident insurance, of statements as to other insurance or indemnity thereunder. 55 A.L.R. 742.

Insurance — Tourists' property insurance policy. 55 A.L.R. 803.

Insurance — Loss due to inherent defect as within policy insuring property against loss or damage. 55 A.L.R. 941.

Insurance — "More hazardous" provision of accident policy as applied to one who without abandoning the occupation named also engages in a more hazardous occupation. 55 A.L.R. 1057.

Insurance — Group insurance. 55 A.L.R. 1245.

Judgment — Judgment in action between assignee and third person as res judicata in action arising out of same transaction as assigned claim between assignor and third person. 55 A.L.R. 1037.

Landlord and tenant — Landlord's consent to holding over by tenant as essential to tenancy from year to year. 55 A.L.R. 286.

Libel and slander — Oral imputation of sexual immorality to man, as actionable per se. 55 A.L.R. 175.

Limitation of actions — When limitation begins to run against action to enforce stockholder's superadded liability. 55 A.L.R. 1068.

Parties — Power of municipality to transfer or assign its right to enforce assessment or lien for local improvements. 55 A.L.R. 667.

Pleading — Form of pleading necessary to raise issue of corporate existence. 55 A.L.R. 510.

Principal and agent — One doing work under a cost plus contract as an independent contractor, or a servant or an agent. 55 A.L.R. 291.

Principal and agent — Salesman's authority to agree contemporaneously with sale to return of goods by buyer. 55 A.L.R. 380.

Public moneys — Contract to pay for services or reimburse expenditures as within constitutional inhibition of aid to sectarian institutions. 55 A.L.R. 320.

Public utilities — Right of public utility corporation to refuse its service because of collateral matter not related to that service. 55 A.L.R. 771.

Sale — Right of conditional seller to retake property without judicial aid. 55 A.L.R. 184.

Set-off — Right of purchaser of mortgaged chattels to allowance as against mortgagee on account of value added by former's services or expenditures. 55 A.L.R. 652.

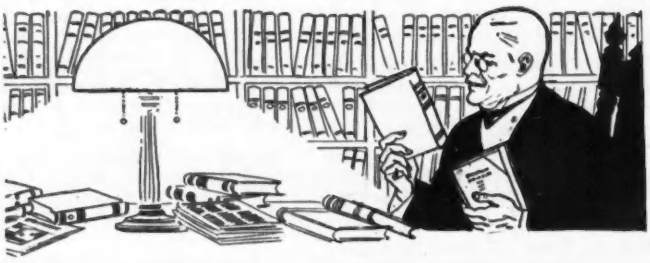
Succession taxes — Exemption of government securities from succession or inheritance tax. 55 A.L.R. 867.

Taxes — Taxation of land under perpetual lease or ground rent. 55 A.L.R. 154.

Taxes — Power of state to tax royalties from patents. 55 A.L.R. 931.

War risk insurance — War risk life and disability insurance. 55 A.L.R. 580.

Workmen's compensation — Effect of claimant leaving state or locality of employment after the injury as affecting right to compensation. 55 A.L.R. 734.



New Books and Recent Articles

A book is what the writer and the reader make it.

"Thompson on Construction of Wills," 1 volume, by George W. Thompson, author of Preparation of Wills and Real Property. This treatise contains many exhaustive annotations and will be found a very complete text on the subject. The work will be ready on October 15th. Price $10 delivered.

"Cases on Wills and Administration." By Philip Mechem and Thomas E. Atkinson, Professors of Law in the University of Kansas. (The Lawyers Co-operative Publishing Co., Rochester, N. Y.) 703 pp. Price $5 delivered.

This book is an attempt to present materials permitting a study of succession as a continuous process, from the preparation of a valid will through the distribution of the deceased's property according to the terms of that will, or, failing that, according to the intestate laws.

Without unduly slighting the leading English cases, the purpose has frankly been to present the subject as far as possible through modern American decisions. Particularly in the field of administration has this been done, since it is difficult to understand the procedure of our probate courts from the study of the English decisions. Administration is largely governed by statutes, and accordingly materials have been selected and arranged to show the actual working of typical statutory schemes. The statutory provisions concerned in the principal cases are set forth in footnotes if not contained in the opinion. Editorial notes make reference to statutes in other jurisdictions and permit the teacher to draw comparisons and discuss the efficiency and desirability of differing rules. As the routine business of probate courts is carried on largely through the use of blank forms, specimens of these forms are occasionally given.

No attempt has been made to provide cyclopedic footnotes, and citations and quotations have been cut down to include only those that seem genuinely suggestive and pertinent. Rather more extended notes on the whole have been appended to the cases dealing with administration, due to the complexity of the material. Notes have been put into the form of problems where the subject-matter permitted. Extensive reference to articles and notes in legal periodicals has been attempted, since this material is often of the greatest value to teacher and student.

"Cases on Personal Property" By Thomas A. Larremore, Professor of Law in the University of Kansas. (The Lawyers Co-operative Publishing Co., Rochester, N. Y.) 640 pp. Price $5 delivered.

In preparing this case book one of the objectives of the editor has been to make available for his own classes certain topics and cases he considers too valuable pedagogically to pass by, yet is unable to secure in books now available.

The editor has also treated subjects which he believes have not been included heretofore in case books on Personal Property, such as "What is Property" and several more specialized topics in the field of bailment. The topic "The Difference Between Personalty and Realty" which is usually pared rigorously, has been expanded.

The cases have been chosen which seem to afford the most practical teaching illustrations of the points involved, and no attempt has been made to obtain an approximate geographical equalization of numbers.

Whenever cases have seemed appropriately treatable more than once, such are inserted but a single time, and then incorporated by cross-reference wherever else they seem necessary.

Our Changing Law Practice. "The dingy old law office with its cluttered confusion of books and papers, its dusty pigeonholes, mussy letterpress, and unwashed windows, is a rare spectacle nowadays," said Dwight G. McCarty, in his address before the Michigan State Bar Association contained in the Michigan State Bar Journal. "But even in the clean and orderly looking office the methods of work may still be old-fashioned and wasteful in the extreme. It is in the operation of the office that the modern methods are accomplishing such decided results. . . .

"Keeping a record of time is a very necessary requirement.

"Time Records not only enable the lawyer to keep tab on his time, but assist in scheduling and despatching his work, making up statements, and proving up his services in court. The Time Record is the basis for a number of effective methods for increasing the lawyer's productive quota.

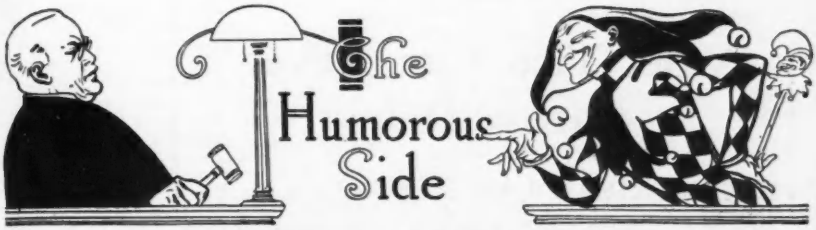
"More attention is being given to the filing system and desk arrangement in offices to-day. It is vitally important to be able to find papers when needed, and therefore an orderly system that makes papers and documents findable is indispensable. . . .

"Time wasted, effort wasted, materials wasted, brain and nerve energy wasted! This is what slows down and clogs the office work. . . .

"By entering standard operations in an "Office Manual," they are always available for the office force and are a great help in breaking in new help. Time-saving forms and appliances are a great aid in cutting down unnecessary work.

"It is said that Abraham Lincoln used to carry his legal papers in his hat. Many lawyers depend upon their memory to keep track of their business. The business of the modern law office is diversified and oftentimes involves considerable responsibility. No lawyer can afford to depend upon his memory alone, nor can he risk a haphazard record of important matters. An effective tickler and despatch board is the office brain of a modern organization. It is the infallible reminder that brings up business for attention on the proper date, and prevents overlooking important matters—the filing of pleadings, or the preparing of briefs or other papers. It brings order out of chaos, relieves the mind from the burden of details, and releases more time for productive work.

"One of the ideas which the lawyer seems slow to appreciate is that it is not necessary for him to do all the work of the office himself."



Laugh when you are tickled, and laugh once in a while anyway.—Josh Billings.

Mother Goose on Balloon Tires.—
Jack and Jill went up the hill
At 60 miles or better;
A cop unkind
Was right behind—
They're seeking bail by letter.
[Bridgeport Post.]

Doubtless a Hotly Contested Case.—Hellmich v. Hellman, — U. S. —, 72 L. ed. (Adv. 262), 56 A.L.R. 379, 48 Sup. Ct. Rep. 244.

Speed Test.—Judge: "Auto going fast?"

Officer: "Going so fast that the bulldog on the seat beside him looked like a dachshund."

No Power.—A certain judge was presiding in a case dealing with the administration of the estate of one Timothy Doolan, deceased.

Timothy Doolan rose in court and said: "I'm the man, and I'm not dead at all."

The judge: For the purpose of this suit you must be treated as dead at present, and if you continue to interrupt I shall commit you for contempt of court.

Doolan: My lord, you have no power to commit a ghost.—Vancouver Province.

The Why of It.—"What is life insurance, little Gagface?"

"It's keeping a man poor all his life so's he can die rich."
—Gaylord (Mich.) Herald-Times.

The Reason.—Judge: But why do you wish the divorce?

Fair plaintiff: Well, I'm thinking of getting married.

Bam!—Witness: "Then he upped and 'e knocked me down with a leaf."

Magistrate: "With a leaf?"

Witness: "Yes, your Honor. With a leaf from the table."—London Opinion.

His Status.—The judge admonished the prisoner thus: "I cannot conceive a meaner, more cowardly act than yours. You have left your wife. Do you realize that you are a deserter?"

"Well, judge, if you knew dat lady as well as I does, you wouldn't call me no deserter. Judge, I'se a refugee."
—The Plan, Harrisburg, Pa.

No Sale.—"You are fined $25 and costs."

"I'm sorry, Judge—but that's just a little more than I care to pay."—Life.

Caught in His Own Net.—Cop: You're pinched for speeding. Any excuse?

Victim: I'm the judge, and am in a hurry to get to the office to fine a lot of speeders.—Smithport (Pa.) Miner.

The Hidden Reason.—"I want to divorce my husband," stated the fair client.

"What for?" inquired the attorney.

"Oh, you wouldn't know him."
—The Plan, Harrisburg, Pa.

Flattering the Jury.—Young Lawyer (addressing jury): Unfortunately the prisoner has always had a weakness of relying upon thieves and scoundrels. He puts implicit faith in you, gentlemen.
—Pathfinder, Washington, D. C.

Another Bird.—Rastus was before the Judge on a charge of stealing poultry.

The judge: "Rastus, you are here on

a charge of stealing chickens. Did you steal this man's chickens?"

Rastus: "N—n-no suh."

The Judge: "And you didn't steal his roosters?"

Rastus: "N—n-no suh."

The Judge: "Case dismissed."

Rastus: "Thank you, Judge. But if you had mentioned ducks, you sure would have had me."—Vancouver Province.

Tut, Tut, Judge.—Judge: "Speeding, eh? How many times have you been before me?"

Speeder: "Never, your Honor. I've tried to pass you on the road once or twice, but my bus will do only 55."

—Collingwood Bulletin.

Over Inspected.—"You are charged," said the judge, "with beating up this government inspector. What have you to say?"

"Nothing," replied the green grocer. "I am guilty. I lost my head. All morning I had held my temper while government agents inspected my scales, tasted my butter, smelled my meat, graded my kerosene. In addition, your Honor, I had just answered three Federal questionnaires. Then this bird came along and wanted to take a moving picture of my cheese, and I pasted him in the eye."—Truth, Buffalo, N. Y.

Jury Defined.—Jury—Twelve people who tell a judge which lawyer impressed them more favorably.

—Martha's Vineyard (Mass.) Gazette.

No Use Advertising.—Briggs: "I've lost my new car."

Griggs: "Why don't you report it to the sheriff."

Briggs: "He's the one that took it."

—America's Humor.

Casus Belli.—Judge: "Why did you hit the dry goods clerk, madam?" Mrs. Knocker: "Well, your Honor, I asked her to show me something suitable in neckwear for myself, and she looked at my neck and then handed me a wash-rag!"—America's Humor.

Got His Wish.—Judge: "What have you to say for yourself?"

Prisoner: "I say I wish I was in a place where there are no traffic cops."

Judge: "Granted! Thirty days!"